

Office of the Superintendent of Bankruptcy Canada
Innovation, Science and Economic Development Canada
151 Yonge Street, 4th floor
Toronto ON M5C 2W7

November 23, 2017

Dear Sirs:

Re: Public Consultations - Proposed changes to Directive No. 1R3, *Counselling in Insolvency Matters*

My name is Vic Kumar, and I have been a registered BIA Insolvency Counsellor since August 2009 operating as Debt Solutions. My wife Rita Kumar is also a registered insolvency counsellor and supports me in my work. I speak English, Hindi, Punjabi, and Arabic. I am also a licensed real estate agent with many years of experience as a business man and entrepreneur. In the past 8 years, my firm has performed more than 400 credit counseling sessions and helped many hundreds of people with their financial problems. My services are advertised on the internet and in local ethnic magazines and newspapers. I have built a reputation for helping people with their financial and other problems. While I primarily offer credit counselling and credit advice, I also refer people to mortgage brokers, lawyers and other professionals as needed. When necessary, I refer people to Licensed Insolvency Trustees (LIT) for a formal insolvency filing including consumer proposals and bankruptcy. I have worked with a number of LIT's and value my independence from them in dealing with people's financial problems. My business focuses on the Indo-Canadian and South East Asian community but I also draw clients from a wide variety of other ethnic communities. A majority of the people I see have English as a second language. I act as an interpreter for the counselling sessions or arrange for one to be available. I am not aware of any complaints being made to the OSB arising from my insolvency counselling sessions. I have an independent offices located in Brampton and Scarborough. People come to my offices from all over Ontario to discuss their financial situation.

As a registered BIA Insolvency Counsellor who is practising independently, I would like to submit my comments on the proposed changes to the counselling directive.

After a thorough reading of the proposed changes, I believe the proposed directive does raise a few good points for regulating and monitoring behavior and as well as the conduct of people including LIT's and independent insolvency counsellors. However, as an honest and professional BIA Insolvency Counsellor, I think the proposed changes are not practical, go too far and not fair to debtors, LIT's, and many BIA Insolvency Counsellors.

First, the proposed directive effectively limits unduly the operation of OSB registered BIA Insolvency Counsellors by creating unreasonable roadblocks for them to carry out their services. We are independent financial advisors who provide insolvency counselling, making contributions to society by providing proper advice and services to people who are facing financial difficulties. In my opinion this type of counsellor is needed in a free and competitive society:

- We are required to have an academic background by passing the counsellor's exam and completing the required 200 counselling sessions before we are registered by the OSB as a BIA Insolvency Counsellor.
- We provide a one-stop service centre to the public who need financial advice and help. Not all of the people who came to see us need to make a formal insolvency filing. Some amongst us are also qualified mortgage agents, real estate agents, insurance brokers, financial advisors and adept in many other professions. We started this type of career as we would like to be independent practitioners. We offer our services based on our extensive knowledge, experience and professional due care.
- We operate in as multicultural environment and we serve our local community conveniently by speaking different languages, understanding diverse cultures and religion, helping new Canadians understand and adapt to the new social system of the host country. Many of us have gone through a similar path but with a lot more roadblocks and detours. Why should there be a need to repeat the same mistakes.

Secondly, in our opinion the proposed directive's concern on referral arrangements, does not appear to be a real conflict. From the required content of the two counselling sessions, the debtors will learn consumer and credit education in the first session, and identification of roadblocks to solvency and rehabilitation in the second session.

- The content of these two counselling sessions which are limited to one-half hour each, are very broad and general. The debtor who is in financial struggle may not precisely realize or connect the educational material and information to his/her own situations.
- We, as the person of initial contact of the debtors, hear their stories first and hold their hands through the whole insolvency filing until they successfully complete their proposal or bankruptcy. Using the knowledge gained from interaction with the debtor and during the two insolvency counselling sessions, we may be providing services and advice far more than a trustee may do during the administration of the proposal or bankruptcy. What we can do, many times, is similar to offering a lifelong coaching arrangement to assist these people to obtain relief and avoid future financial problems. We really don't conflict in providing the insolvency counselling to the debtors, who are indeed our clients.
- In our view, if the OSB directive proposes that a registered insolvency counsellor is in conflict if they perform insolvency counselling sessions to a client that is referred to a LIT,

way. We fail to see the difference between the relationship between a lawyer who refers clients to a trustee and continues help the same client on other matters, or an accountant who refers clients to trustee and continues providing accounting services to the same client; in some cases, the service may be related to their insolvency filings.

Thirdly, the proposed directive will cause a reduction of income to independent BIA Insolvency counsellors by preventing them to offer other complementary services. It also discourages us from actively servicing the community where we bring a huge positive influence. It is quite common that a person in financial stress will open up in front of a consultant or insolvency counsellor rather than a LIT because the trustee is an officer of the court. The legal implications surrounding a LIT makes the debtor feel nervous. Without a full discussion of the financial circumstances of the debtor then all parties loose. Facts which may not be disclosed which otherwise identify assets or transactions which should be further investigated. The credit counsellor works with the Trustee as each party benefits from a positive outcome.

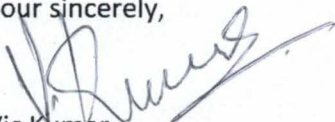
By providing the above comments, we hope OSB will re-consider the proposed changes and its perceived impact on the whole insolvency industry, and public. At the same time, there are a few suggestions:

- Location of providing the counselling sessions. It does not appear in the BIA that the location of assessment performed by the trustee is restricted, so why should counselling sessions have to be provided in a trustee's office? The debtors frequently need to take time off from work to meet the trustee for the assessment and signing prescribed forms. Forcing debtors to travel to a trustee's office for half-hour counselling sessions increases the debtors cost. It does not sound reasonable for a person already struggling on a low income. Considering travel time, debtors will lose at least a half day of wages for each counselling session and incur travel expense such as bus fare, parking etc. We would recommend that all counselling sessions be done with a registered insolvency counsellor either in person or through video or telephone conference so long as it is in a quiet environment for dialogue.
- We recommend allowing the debtor to choose the registered insolvency counsellor who will provide the counselling session and eliminate the proposed registration under trustee's licence. We see this as confusing to the public, especially if a credit counsellor is registered with two or more LIT's. Instead, OSB should review and re-certify all BIA insolvency counsellors and publish the list of registered insolvency counsellors on the OSB website. This will protect the pubic from being misguided by unprofessional insolvency counsellors and it will help OSB to watch any unacceptable behavior by counsellors and trustees. We believe all independent BIA Insolvency Counsellors are proud of being OSB registered counsellors and having a healthy and fair business relationship with licensed insolvency trustees. Under the supervision of OSB, the BIA Insolvency Counsellor should be able to work independently from trustees, and assist the debtor to overcome the difficult financial times.

- Mandatory professional training. The two insolvency counselling sessions have prescribed topics to be covered. There does not appear to have been changes made to the topics to be covered in quite some time. Instead it has been left to the registered insolvency counsellor to integrate changes in current lending practices. We utilize the knowledge and skills learned in related business activities to make the two sessions meaningful to the debtor. If a professional program is developed to assist in the material to be covered in the two insolvency counselling sessions we would welcome it. However, given the two sessions are only one-half each, requiring a full day of annual training may place an undue financial obligation on the counsellor.

I look forward to the revised Directive with fair and reasonable treatment to all BIA Insolvency Counsellors who are acting ethically. Your time and consideration would be greatly appreciated.

Your sincerely,



Vic Kumar

BIA Registered Insolvency Counsellor

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